



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/167449

PRELIMINARY RECITALS

Pursuant to a petition filed July 22, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on September 02, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined the Petitioner's cost share for July 2015 to be \$320.00.

NOTE: The Petitioner was discharged from the nursing home on August 26, 2015. Consequently, the agency removed the cost share for August 2015. The Petitioner agreed that the only month in issue was July 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Lillan Alford, Quality Insurance Coordinator
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. The Petitioner enrolled in Family Care on May 1, 2015. (Exhibit 9)
3. The Petitioner was in a nursing home; went to the hospital and returned to the nursing home on July 9, 2015. (Exhibit 9)
4. The Petitioner was discharged from the nursing home on or about August 26, 2015. (Statement of [REDACTED] and [REDACTED])
5. Petitioner's sole source of income is from Social Security Disability Income, in the amount of \$1,015.00. (Testimony of Petitioner; Exhibit 6)
6. The Petitioner reported rent in the amount of \$500. (Exhibit 7; testimony of Petitioner)
7. The Petitioner reported a phone bill of \$50.00. The Petitioner's phone service is bundled with his cable television service. The bundled bill for March, April, June, and August averaged out to be \$97.12 per month, so the \$50.00 estimate was reasonable. (See Exhibits 2 and 4; Confirmation of Petitioner's receipts by [REDACTED])
8. Petitioner's gas and electric charge for July 2015 was \$98.33, which is consistent with Petitioner's previous report of a \$50.00 expense for gas and a \$50.00 expense for electricity. (Id.)
9. On May 27, 2015, the agency determined the Petitioner's cost share, effective July 1, 2015, to be \$320.00. (Exhibit 8)
10. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on July 22, 2015. (Exhibit 1)

DISCUSSION

Family Care is a community-based waivers program. When an institutionalized person is a community waiver member, the cost share is calculated pursuant to Medicaid Eligibility Handbook §28.5. *See MEH §27.7.1*

People eligible for Family Care Medicaid fall into one of the following categories:

Group A eligibility

Group A members are functionally eligible and Medicaid eligible via SSI or one of the following full benefit-Medicaid Subprograms:

- Katie Beckett Medicaid
- Institutional Medicaid
- BadgerCare Plus
- EBD Medicaid
- Foster Care Medicaid
- Adoption Assistance Medicaid
- Medicaid Met Deductibles
- MAPP (Medicaid Purchas Plan)
- WWWMA (Wisconsin Well Woman)

Group A members are financially eligible with no cost share.

Medicaid Eligibility Handbook §28.8.2

Group B eligibility

Group B members are not eligible for the full-benefit Medicaid Sub-programs and have gross income at or below the nursing home institutions categorically needy income limit which is currently \$2,199.00

*Medicaid Eligibility Handbook §§28.8.2 and 39.4.1*Group B Plus eligibility

Group B Plus members are defined as those who are:

- Not in Group A, and
- Have gross income above the nursing home institutions categorically needy income limit (\$571.45+actual shelter costs up to \$244.33) and
- Whose income does not exceed the cost of the appropriate institutional care by more than the medically needy income limit of \$591.67.

Medicaid Eligibility Handbook (MEH), §28.8.3

Petitioner's gross income is \$1,015.00. Because his income is below the nursing home institutions categorically needy income limit of \$2,199.00, he is a Group B participant.

Cost sharing is the monthly amount a waivers participant has to contribute toward the cost of his/her waiver services. *MEH, § 28.5.1.* Payment of the cost share is a condition of eligibility. *Id.*

The cost share calculation for a group B participant is as follows:

Total Income
-Personal Maintenance Allowance
-Family Maintenance Allowance
-Special Exempt Income
-Health Insurance Premium
-Out of Pocket Medical Remedial Expenses
<hr/>
Cost Share Amount

See DHS Worksheet F-20919 (07/2015 and 08/2015)

The Petitioner is single and has no dependent children. As such, the agency did not give the Petitioner the Family Maintenance Allowance. The Petitioner did not report any special exempt income, health insurance premiums, or medical/remedial expenses. Thus, the main deduction from income for Petitioner came from the personal maintenance allowance.

The personal maintenance allowance is calculated as follows:

28.8.3.1 Personal Maintenance Allowance

The Personal Maintenance Allowance is an income deduction used primarily when calculating a cost share for a Group B waiver member...

The personal maintenance allowance (Line 6 and Page 2 of the worksheet) is for room, board, and personal expenses. It is the total of:

1. Community Waivers Basic Needs Allowance (See [39.4.2 EBD Deductions and Allowances](#))
2. \$65 and ½ earned income deduction (See [15.7.5 \\$65 and ½ Earned Income Deduction](#)).
3. Special housing amount. This is an amount of the person's income set aside to help pay housing costs. If the waiver applicant's housing costs are over \$350, add together the following costs:
 - a. Rent.

- b. Home or renters insurance.
- c. Mortgage.
- d. Property tax (including special assessments).
- e. Utilities (heat, water, sewer, electricity).
- f. "Room" amount for members in a Community Based Residential Facility, Residential Care Apartment, or an Adult Family/Foster Allowance Home. The case manager determines and provides this amount.

The total, minus \$350, equals the special housing amount. The person can set this amount aside from his/her income.

...

MEH, §28.8.3.1.

The Community Waivers Basic Needs Allowance is currently \$913. *MEH, §39.4.1.* The Petitioner has no earned income and so the \$65 and ½ earned income deduction does not apply to him. The Petitioner's Special Housing amount works out to be as follows for July 2015:

\$500.00 Rent
+ \$98.33 for gas and electric
+ \$50.00 for phone charges
- \$350.00
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\$298.33 Special Housing Amount

Petitioner's Personal Maintenance Allowance works out to be:

\$913 Basic Needs Allowance
+ \$298.33 Special Housing Amount

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\$1211.33 Personal Maintenance Allowance

Thus, Petitioner's Cost Share Calculation effective July 1, 2015 works out to be:

\$1015.00 Income from Social Security
- \$1211.33 Personal Maintenance Needs Allowance
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\$0 Cost Share

At the hearing, the Petitioner wanted the agency to count the expenses he incurs caring for his mother, since he pays for her rent and utilities. However, that issue is moot, since his expenses alone, result in a calculation of zero for his cost share.

CONCLUSIONS OF LAW

The agency did not correctly calculate the Petitioner's cost share for July 2015.

THEREFORE, it is

ORDERED

That the agency remove the cost share for July 2015. The agency shall take all administrative steps to complete this task within ten days of this decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

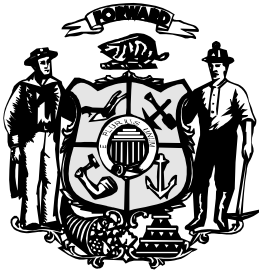
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 30th day of September, 2015.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 30, 2015.

Milwaukee Enrollment Services
Office of Family Care Expansion
Health Care Access and Accountability